

DS

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)
)
Patrick Strozier #119519,)
)
Applicant,)
)
v.)
)
State of South Carolina,)
)
Respondent.)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT
RECEIVED

2011-CP-42-3003 - 6 2013

S.C. Supreme Court

CONDITIONAL ORDER OF DISMISSAL

This matter comes before this Court by way of an application for post-conviction relief filed September 12, 2011, and amended November 4, 2011.¹ Respondent made its Return and Motion to Dismiss on or about January 9, 2013.

I. PROCEDURAL HISTORY

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Clerk of Court for Spartanburg County. The Applicant was indicted at the January 1984 term of the Court of General Sessions for Spartanburg County for kidnapping and criminal sexual conduct, first degree (1984-GS-42-0239). He was represented by Charlie Sanders, Esquire. On February 7, 1984, the Applicant pled guilty as indicted. The Honorable Paul M. Moore sentenced him to confinement for life for kidnapping and thirty (30) years concurrent for criminal sexual conduct. Upon information and belief, the Applicant did not appeal his conviction.

2013 JAN 21 AM 9:38

Upon information and belief, the Applicant filed an initial PCR application, which was denied and dismissed on June 24, 1994. The Respondent also believes that the Applicant filed a timely notice

¹ Respondent notes that the amended application appears to simply be a duplicate of the first application. The Applicant, on March 13, 2012, also forwarded a copy of an application that appears to have been filed in Richland County on December 19, 2011. Respondent further notes that this application includes a Motion for a Change of Venue, Motion for Judicial Notice, Motion to Supplement the Proceedings, Motion to Consolidate, Motion for Class Action Certification, Petition to Remove, and a Motion to Appoint Federal Counsel pursuant to ADA and Complexity of Case. Applicant appears to have

of appeal, and a brief was submitted pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988).

The Petition was denied on May 5, 1989.

2000-CP-42-2176

The Applicant subsequently filed a second application for post-conviction relief (PCR) on July 27, 2000. In that application, Applicant alleged he was being held in custody unlawfully for the following reasons:

1. Subject Matter Jurisdiction – “Defective Indictments”; and
2. Ineffective Assistance of PCR Counsel.

An evidentiary hearing was convened on July 31, 2002. Upon information and belief, the Applicant was present and represented by Edwin C. Haskell III. The Honorable Donald W. Beatty denied the application by written Order dated February 9, 2003.

The Applicant filed a timely Notice of Appeal. Following the submission of a brief pursuant to Johnson v. State, 294 S.C. 310, 364 S.E.2d 201 (1988), the South Carolina Supreme Court dismissed the appeal on March 4, 2004. The Applicants *pro se* request for a rehearing was denied on April 7, 2004. The Remittitur was also issued April 7, 2004.

2004-CP-42-3321

The Applicant subsequently filed a third application for post-conviction relief (PCR) on September 30, 2004. In that application, Applicant alleged he was being held in custody unlawfully for the following reason:

1. Lack of Subject Matter Jurisdiction.

An evidentiary hearing was convened on October 27, 2005. The Applicant was present and represented by John G. Reckenbeil, Esquire. The Respondent was represented by Molly R. Crum, Assistant Attorney General. Finding the circuit court clearly had subject matter jurisdiction and all other

requested to have his case remanded to the New York Federal Court system.

claims were successive and time barred by the statute of limitations, the Honorable Roger L. Couch denied the application by written Order dated January 4, 2006.

A *pro se* Notice of Appeal was subsequently filed on February 7, 2006. The South Carolina Court of Appeals dismissed the Applicant's appeal pursuant to Rule 227(c), SCACR, in an Order dated March 16, 2006. The Remittitur was issued on April 3, 2006.

Applicant's Current PCR Application

II.

In his current application for post conviction relief the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Violation of 10th, 5th, 6th, and 14th Amendment rights,
2. Due Process Violations,
3. Lack of Subject Matter Jurisdiction, and
4. Ineffective Assistance of Counsel.

Before this Court are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, Applicant's prior PCR records, Applicant's current PCR application and amendments, and Respondent's Return and Motion to Dismiss.

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II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

Statute of Limitations

This Court finds that this Application for Post-Conviction Relief should be summarily dismissed for failure to comply with the filing procedures of the Uniform Post-Conviction Procedure Act. S.C. Code Ann. § 17-27-10 to -160 (2003). S.C. Code Ann. §17-27-45(a) reads as follows:

An application for relief filed pursuant to this chapter must be filed within one year after the entry of a judgment of conviction or within one year after the sending of the Remittitur to the lower court from an appeal or the filing of the final decision upon an appeal, whichever is later.

The South Carolina Supreme Court has held that the statute of limitations shall apply to all applications filed after July 1, 1996. Peloquin v. State, 321 S.C. 468, 469 S.E.2d 606 (1996). The Applicant was convicted of the offenses he challenges in this Application on February 7, 1984. The Applicant was therefore required to file the application before February 7, 1985. This Application was filed on September 12, 2011, which was over 25 years beyond the time that the statutory filing period had expired.

A motion for summary judgment may properly be used to raise the defense of statute of limitations. McDonnell v. Consolidated School District of Aiken, 315 S.C. 487, 445 S.E.2d 638 (1994). In addition, S.C. Code Ann. §17-27-70(c) (2003) authorizes the Court to "grant a motion by either party for summary disposition of [an] application when it appears from the pleadings ... that there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law."

Therefore, this Court finds that the application for post-conviction relief is summarily dismissed for failure to file within the time mandated by statute.

Laches

Additionally, this Court finds this application is barred under the doctrine of *laches*. The Applicant has filed this application over twenty-five (25) years after he was convicted. The doctrine of *laches* bars the Applicant from raising these allegations in a post-conviction relief application. Absent some explanation or justification for the delay in seeking post-conviction relief, *laches* will prevent an Applicant from seeking collateral review of his conviction, especially where the delay affects the availability of evidence to refute the applicant's claims. McElrath v. State, 276 S.C. 282, 277 S.E.2d 890 (1981); Honeycutt v. Ward, 612 F.2d 36 (2nd Cir. 1979). Whitehead v. State, 352 S.C. 215, 574 S.E.2d 200 (2002).

To ensure finality of litigation, our courts require reasonable diligence in pursuing collateral

2013 JAN 21 AM 10:38

relief. This requirement "guards the state's legitimate expectation that it will not be called upon without due cause, to defend the integrity of convictions that occurred many years ago, where records and witnesses are no longer available." McElrath, 276 S.C. at 283. Rule 9(a) of the Federal Habeas Corpus Act recognizes the doctrine of *laches*. The Rule states in pertinent part:

A petition may be dismissed if it appears that the state of which the Respondent is an officer has been prejudiced in its ability to respond to the Petition by delay in its filing unless the Petitioner shows that it is based on grounds of which he could not have had knowledge by the exercise of reasonable diligence before the circumstances prejudicial to the state occurred.

Furthermore the South Carolina legislature has recognized this problem and instituted a one year statute of limitations. See S.C. Code Ann. §17-27-45(a). The Applicant's delay has greatly prejudiced the Respondent. It is questionable whether the attorneys will remember the case and whether their files will be available. If the Applicant had sought post-conviction relief within a reasonable time after his plea, neither of these problems would exist. Therefore, the Court finds that the Application is summarily dismissed based on the Applicant's lack of diligence in processing his claim for relief.

Successiveness

This Court finds that the current application for post-conviction relief must be summarily dismissed because it is successive to his prior application for post-conviction relief. S.C. Code Ann. §17-27-90 provides that:

All grounds for relief available to an application under this chapter must be raised in his original, supplemental or amended Application. Any ground finally adjudicated or not so raised, knowingly, voluntarily and intelligently waived in the proceeding that resulted in the conviction or sentence or in any other proceeding Applicant has taken to secure relief, may not be the basis for a subsequent Application, unless the court finds a ground for relief asserted which for sufficient reason was not asserted or was inadequately raised in the original, supplemental or amended Application.

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Successive applications are disfavored and the burden is on Applicant to establish that any new ground raised in a subsequent application could not have been raised by him in a previous application. Foxworth v. State, 275 S.C. 615, 274 S.E.2d 415 (1981); Aice v. State, 305 S.C. 448, 409 S.E.2d 392 (1991); Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834 (1992).

This Court finds that the current allegations were or could have been raised in the proceedings based on Applicant's prior application for post-conviction relief and thus the current application is successive and barred under S.C. Code § 17-27-90. Applicant has failed to establish sufficient reason why he could not have raised his current allegations in his previous application for post-conviction relief; therefore, he has failed to meet the burden imposed upon him. Land v. State, 274 S.C. 243, 262 S.E.2d 735 (1980); Aice, 305 S.C. 448, 409 S.E.2d 392; Arnold v. State/Plath v. State, 309 S.C. 157, 420 S.E.2d 834.

Res Judicata

Further, this Court finds this application is barred under the doctrine of *res judicata*. *Res judicata* prohibits subsequent actions by the same parties on the same issues. Bell v. Bennett, 307 S.C. 286, 414 S.E.2d 786 (Ct. App. 1992). A final judgment on the merits in a prior action bars subsequent consideration of those issues in a new action. Foran v. USAA Casualty Ins. Co., 311 S.C. 339, 427 S.E.2d 918 (Ct. App. 1993). *Res judicata* also bars any issues that could have been raised in the former action. Id.

The Applicant had a full opportunity to litigate all allegations regarding ineffective assistance of counsel in prior post-conviction relief proceedings. The Petitioner continues to raise the same meritless claims by repeated collateral attacks on his convictions. The other grounds present allegations that could have been raised in those prior proceedings. The public interest in finality of judgments requires that litigation must eventually come to an end. Pursuant to Rule 12(b)(6), SCRCP, this Court finds that

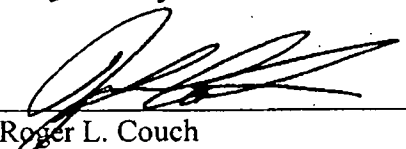
the current application is summarily dismissed as these claims as barred by *res judicata*.

Summary

Pursuant to S.C. Code Ann. §17-27-70(b), the Court intends to dismiss this Application with prejudice unless the Applicant provides specific reasons, factual or legal, why the Application should not be dismissed in its entirety. The Applicant is granted twenty (20) days from the date of service of this Order upon him to show why this Order should not become final. The Applicant shall file any reasons he may have with the Spartanburg County Clerk of Court and shall serve opposing counsel at the following address:

Suzanne H. White, Esquire
Office of the Attorney General
P.O. Box 11549
Columbia, SC 29211

AND IT IS SO ORDERED this 23rd day of January, 2013.



Roger L. Couch
Administrative Judge – Common Pleas
Seventh Judicial Circuit

Spartanburg, South Carolina

2013 JAN 24 AM 10:39

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2591
Fax (864) 596-2239



M. Hope Blackley
Clerk of Court

January 25, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

7TH JUDICIAL CIRCUIT

Patrick Strozier
119519
Applicant

CASE # 2011 CP42-3923

CERTIFICATE OF SERVICE

State
VS
Respondent

I certify that, on this date, I served a copy of the

Quasi-Judicial Order of Dismissal

In this action dated 1-23-2013 on 1-29-13

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Ann Miller
Suzanne White
Patrick Strozier

1-25-13

(Date)

Debbie Gelf
(Signature)

Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O Box 3483
Spartanburg, SC 29304-3483

Phone (864) 596-2591
Fax (864) 596-2239



M. Hope Blackley

Clerk of Court

Sept. 4, 2013

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

7TH JUDICIAL CIRCUIT

Patricia Spozier

#119519

Applicant

CASE # 2011-CP-42-3923

Spree^{VS}

Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the

Final Order

In this action dated 8-20, 2013 on

9-4-13

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

Ann Miller

Judanne White

Patricia Spozier

9-4-13

(Date)

Corinne Day

(Signature)

STATE OF SOUTH CAROLINA)
)
 COUNTY OF SPARTANBURG)
)
 Patrick Strozier, #119519,)
)
 Applicant,)
)
 v.)
)
 State of South Carolina,)
)
 Respondent.)
 _____)

IN THE COURT OF COMMON PLEAS
 SEVENTH JUDICIAL CIRCUIT

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2011-CP-42-3923 NOV - 6 2013

S.C. Supreme Court

FINAL ORDER

This matter comes before this Court by way of an application for post-conviction relief filed September 12, 2011 and amended November 4, 2011¹, following a Motion for Merger and an Order of Merger, which was signed on October 1, 2012.² Respondent made its Return and Motion to Dismiss on or about January 9, 2013, requesting that the application be summarily dismissed.

Pursuant to this request, and after reviewing the pleadings in this matter and all of the records attached thereto, this Court issued a Conditional Order of Dismissal dated January 23, 2013, provisionally denying and dismissing this action, while giving Applicant twenty (20) days from the date of service of said Order in which to show why the dismissal should not become final. Attached to this Final Order and incorporated herein by reference is an Affidavit of Service February 23, 2013, serving the above-mentioned Conditional Order of Dismissal on the Applicant.

FILED
 CLERK OF COURT
 SPARTANBURG COUNTY
 AUG 26 AM 11:06
 HOPKINS & COMPANY

¹ This Court notes that the second application, which is now considered to be an amendment, appears to simply be a duplicate of the first application.

² The Applicant, on March 13, 2012, also forwarded a copy of an application with multiple Petitioners that appears to have been filed in Richland County on December 19, 2011. This Court notes that this application includes a Motion for a Change of Venue, Motion for Judicial Notice, Motion to Supplement the Proceedings, Motion to Consolidate, Motion for Class Action Certification, Petition to Remove, and a Motion to Appoint Federal Counsel pursuant to ADA and Complexity of Case. Applicant appears to have requested to have his case remanded to the New York Federal Court System. Because this was improperly filed in Richland County, this Court does not consider this document as an application pertinent to this matter.

In a document captioned "Applicant's Motion for Appointment of Counsel," filed December 17, 2012, Applicant argues that he should be appointed counsel in this matter because he is indigent. Applicant also includes a request for the grand jury impanelment documents relevant to his conviction and sentence. Applicant submitted the identical documents to Respondent on January 10, 2013.

In documents captioned "Applicant's Motion for After Discovered Evidence," and "Applicant's Motion In Opposition to Defendant Motion to Dismiss," filed February 15, 2013, Applicant argues that his application should not be summarily dismissed based on the Statute of Limitations, the Doctrine of Laches, the Doctrine of Successiveness, and the Doctrine of *Res Judicata*. Applicant first states that he was deprived of his right to a preliminary hearing. Because a hearing was not properly conducted, Applicant claims, the indictment was illegal and the Court did not have jurisdiction over Applicant at the time of his conviction. Applicant alleged newly discovered evidence, but offered no description of the evidence, and then requested review of his previous post-conviction relief denial under 60(b) because of fraud, misrepresentation, or other misconduct.

Applicant further alleges that the statutes cited in his arrest warrant are vague,³ and Applicant's conviction thereunder is thus a violation of Applicant's Equal Protection rights. In support, the Applicant attached copies of the arrest warrants in his case. This Court finds the following cases to be dispositive: State v. Smith, 275 S.C. 164, 166, 268 S.E.2d 276, 277 (1980) (holding that the South Carolina kidnapping statute is not unconstitutionally vague) and State v. Gambrell, 274 S.C. 587, 589, 266 S.E.2d 78, 80 (1980) ("A penal statute which is arguably unconstitutional in some of its applications will not be overturned where it is clearly applicable to the

³ Applicant was convicted under S.C. Code Ann. §§ 16-3-910 (Kidnapping), 16-3-651 (Criminal Sexual Conduct

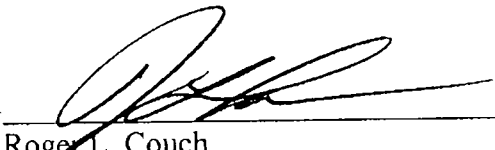
accused.”).

This Court has reviewed Applicant’s responses to the State’s Conditional Order of Dismissal in its entirety, in conjunction with the original pleadings, and finds that a sufficient reason has not been shown why the Conditional Order of Dismissal should not become final. This Court finds that Applicant’s current Application is successive to Applicant’s two previously filed applications and Applicant’s current application was filed outside the Statute of Limitations.


IT IS THEREFORE ORDERED that, for the reasons set forth in the Court’s Conditional Order of Dismissal, the Application for PCR is hereby denied and dismissed with prejudice.

This Court cautions Applicant that he must file and serve a notice of appeal within thirty (30) days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Your attention is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

AND IT IS SO ORDERED this 20th day of August, 2013.



Roger L. Couch
Administrative Judge – Common Pleas
Seventh Judicial Circuit


_____, South Carolina.

FILED
CLERK OF COURT
SPARTANBURGH COUNTY
2013 AUG 26 AM 11:06
M. HOPE BLANKLEY

Definitions), and 16-3-652 (Criminal Sexual Conduct in the First Degree).

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

Post Office Box 21787 - Columbia, South Carolina 29221

Pursuant to Rule 4(d)(2), SCRCP, the Director of the South Carolina Department of Corrections has designated Sgt. J. Tuth (Server) as his duly authorized agent for the purpose of making service of the signed Conditional Order of Dismissal on the below named individual.

STATE OF SOUTH CAROLINA)
COUNTY OF McCormick) **AFFIDAVIT OF PERSONAL SERVICE**

On this 5 day of February, 2013, I served the signed **Conditional Order of Dismissal** on Inmate Patrick Strozier, **SCDC No.** 119519, by delivering personally and leaving a copy of the same at McCormick **Correctional Institution, MCLJ McCormick**, South Carolina. Deponent is not a party to this action.

Sgt. J. Tuth
SCDC Server

SWORN TO AND SUBSCRIBED BEFORE ME

This 5 day of Feb., 2013

Joyce L. Young (L.S.)
Notary Public for South Carolina
My commission expires 10 11 2021

ADMISSION OF SERVICE

Service of a signed copy of the Conditional Order of Dismissal at the S.C. Department of Corrections, McCormick Correctional Institution, McCormick County, South Carolina, this 5 day of February, 2013.

Patrick Strozier
Inmate Signature
SCDC No. 119519

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2013 AUG 26 AM 11:06
H. HOPKINS

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY

ROGER L. COUCH, COMMON PLEAS

PATRICK STROZIER, #119519, APPELLANT

v.

STATE OF SOUTH CAROLINA RESPONDENT.

2011-CP-42-3923

[RECORD ON APPEAL]

RECEIVED

OCT 31 2013

S.C. SUPREME COURT

TABLE OF AUTHORITIES

STATE V. WHEELER, 193 S.E. 2d 515.

STATE V. McCURE, S.C. 289, S.E. 2d 198.

STATE V. KEENAN, 296, S.E. 2d 676.

S.C. CODE OF LAW § 17-23, 160

PAYNE V. MADIGAN, 274 F.2d 702 (1960)

UNITED STATES V. VALLARO, 816 F.2d 1448, 194

RULE 11 Fed. RuSS Civ.

RECEIVED

OCT 31 2013

S.C. SUPREME COURT

APPELLANT APPEALS THE FINAL ORDER OF
ROGER L. COUCH DATED SEPT. 9, 2013, WHEREBY
DISMISSING APPELLANT CURRENT POST CONVICTION
RELIEF APPLICATION.

• THAT APPELLANT CURRENT APPLICATION IS
SUCCESSIVE TO APPELLANT'S TWO PREVIOUSLY FILED
APPLICATIONS.

• APPELLANT CURRENT APPLICATION WAS FILED
OUTSIDE THE STATUTE OF LIMITATIONS.

ALSO GRANTING APPELLANT THIRTY (30) DAYS
FROM RECEIPT BY COUNSEL OR WRITTEN NOTICE
OF ENTRY OF JUDGMENT TO SECURE THE
APPROPRIATE APPELLANT REVIEW.

THEREFORE APPELLANT PATRICK STROZIER
SEEKS THIS COURT ATTENTION THEREOF.

DID THE LOWER COURT HAVE JURISDICTION
TO TRY APPELLANT.

APPELLANT CONTENDS TO SHOW THAT THE SPARTANBURG COURT OF GENERAL SESSIONS PAUL MOORE, JUDGE NEVER OBTAIN JURISDICTION. APPELLANT CONTENDS TO SHOW THAT THERE WAS NEVER A PRELIMINARY HEARING HELD IN ORDER TO KNOW WHAT EVIDENCE IS BEING PRESENTED.

THE ATTACHED EXHIBIT SHOWS JUDGE OVERSTREET FAILED TO ACTUALLY SIGN THE APPELLANT DEMAND FOR A PRELIMINARY HEARING. THE DEMAND FOR A PRELIMINARY HEARING IS A TYPEWRITTEN INITIALS E.H.O. (E.H. OVERSTREET) A TYPEWRITTEN ORDER THAT HAS NO SIGNATURE BECAUSE E.H.O. JUDGE TYPE NAME / INITIALS ON THE DEMAND FOR PRELIMINARY HEARING. DO NOT CONSTITUTES A SIGNATURE. IT IS WELL ESTABLISH IN PAYNE V. MADIGAN, 274 F.2d 702 (1960) (CA 9 CAL), THE WRITTEN JUDGEMENTS AND COMMITMENTS, SIGNED BY THE JUDGE. UNITED STATES V. VALLAND, 816 F.2d 1448, 194, UNDER RULE 11, FED. RULES CIV., A TYPEWRITTEN NAME ON THE DEMAND FOR A PRELIMINARY HEARING IS NOT A SIGNATURE. SPECIFICALLY, NEGLECTING TO HAVE FACTUAL BASIS FOR SIGNED PAPER(S) CONSTITUTES VIOLATION OF RULE 11. ALSO SEE WALKER V. WALKER, 834 F Supp. 1413.

BUT BEING UNSIGNED, AND THEREFORE SUCH ORDER WAS (VOID) AND UNENFORCEABLE. THUS, APPELLANT HAS SHOWN TO THIS COURT THAT THE COURT JUDGMENT FAILS TO

Uniform Warrant Number(s)

NOTICE TO CLERK OF COURT
AND
SOLICITOR OF JUDICIAL CIRCUIT

- 1. _____ A978668
- 2. _____ A978667
- 3. _____ A978669
- 4. _____
- 5. _____
- 6. _____

Please take notice that a preliminary examination has been demanded in writing in the case of:

The State vs. Patrick Stozier, James O Crockett, Lamar Green

The criminal act(s) charged in this case is/are:

Kidnapping, 1st deg crim sex cond.

The defendant in this criminal action is represented by:

Pub. Def.

Now, therefore, it is ordered that the defendant named above be granted a preliminary examination to be held at this place, time and date:

November 29, 1983 at 10:00 am
(place, time and date)

The clerk of court is requested to provide a certified copy of the criminal warrant in this case for the purpose of the preliminary examination.

11/10/83
Date

EHO
Judge
smc

SEAL

County and District

- Copies to:
- Clerk of Court - White
 - Solicitor - Yellow
 - Attorney General - Pink
 - Summary Court File Copy - Gold

This is to advise you that due to new legislation signed by Governor Riley on June 3, 1986, you will no longer earn work credits. Section 14 of the Omnibus Crime Bill states no inmate serving the term of life imprisonment is entitled to Earned Work or Earned Educational credits under this provision. All credits accrued prior to June 3, 1986 will be applied toward your parole date. Any credits accrued after the above date and all projected credits have been subtracted from your parole date.

Prior Projected Parole Eligibility Date:

9/06/92

New Projected Parole Eligibility Date:

7/29/93

S. Sutton

Witness

Patil Atypie

Inmate Name and SCDC Number

119519

MEET THE BRIGHT LINE TEST OUTLINED ON THE COURT,
UNSIGNED JUDGMENTS / ORDERS CITED HERE, THEN THE COURT
SHOULD RULE THAT JUDGMENTS VOID ON ITS FACE.

DID APPELLANT RECEIVE DUE PROCESS OF LAW, UNDER
THE SOUTH CAROLINA CONSTITUTION, AS WELL AS THE
UNITED STATES CONSTITUTION

- EX POST FACTO VIOLATIONS
- 6TH & 14TH AMENDMENT VIOLATIONS

APPELLANT CONTENTS THAT HIS RIGHT TO NOT BE
SUBJECT TO EX POST FACTO VIOLATIONS HAVE BEEN
DISREGARDED. WHEREBY APPELLANT WAS SENTENCED
IN 1984 WHICH THE OLD LAW WAS IN EFFECT AT
THE TIME APPELLANT WAS ARRESTED. § 16.1-60
DEFINING CRIMES IN SOUTH CAROLINA WAS
NOT AMENDED / CHANGED UNTIL 1986, APPELLANT
WAS ALREADY SENTENCED AND SERVING HIS SENTENCE
SEE ATTACH (COPY NOTIFYING APPELLANT)

SIXTH & 14TH AMENDMENT VIOLATIONS

APPELLANT CONTENTS THAT JUDGE PAUL MOORE, SOLICITOR
WILSON COMMITTED CONSTRUCTIVE AMENDMENT WHEN HE ALTERED
LITERALLY [VERBALLY] OR PHYSICALLY THE NATURE OF THE
OFFENSE - C.S.C. SUCH AMENDMENT VIOLATES THE 6TH & 14TH
AMENDMENTS OF THE UNITED STATES / SOUTH CAROLINA CONSTITUTION.

STATE V. GUTHRIE, 572 S.E.2d 309 [S.C. App. 2002] U.S. v. FORD [CITE 872 F.2d. 1231 [1989] THEREFORE APPELLANT REQUEST THIS COURT ATTENTION TO THE TWO PREVIOUS POST CONVICTION RELIEF APPLICATION.

ARE APPELLANT'S APPLICATION SUCCESSIVENESS / TIME BARRED

APPELLANT CONTENDS THAT THE LEGISLATURE DID NOT INTEND THE STATUTE OF LIMITATIONS FOR POST CONVICTION RELIEF ACTIONS, AS SET FORTH IN SECTION 3 17-27-45 (A), S.C. CODE ANN. (SUPP. 1996), TO BAR APPELLANT CLAIMS. SECTION 17-27-45 WENT INTO EFFECT ON JULY 1, 1995 ACT NO. 7 PART 4 3 40 PART V 3 77 1995 S.C. ACTS 77, 102. PREVIOUSLY, THE DOCTRINE OF LACHES POSED THE ONLY TIME RESTRICTION ON APPLICATIONS FOR POST-CONVICTION RELIEF. SEE McELRATH V. STATE, 276 S.C. 282, 227 S.E.2d 890 (1981). IN THIS CASE, THE LOWER COURT RULED THAT SUCCESSIVENESS AND TIME BARRED APPELLANT APPLICATION FOR POST CONVICTION RELIEF.

IN GENERAL A STATUTE IS PRESUMED PROSPECTIVE ONLY, NOT RETROACTIVE, UNLESS THERE IS CLEAR LEGISLATIVE INTENT TO THE CONTRARY. FIDELITY AND CASUALTY INS. CO. V. NATIONWIDE INS. CO., 278 S.C. 332, 295 S.E.2d. 783 (1982). LEGISLATIVE INTENT REGARDING RETROACTIVITY IS CLEAR WHEN THE STATUTE "LEAVE[S] NO ROOM FOR DOUBT." SOUTH CAROLINA NAT'L BANK V. SOUTH CAROLINA TAX COMMISSION, 297 S.C. 279, 376, S.E.2d 512, 513 (1989). OTHERWISE, THE LAW IS FIXED WHEN A CAUSE OF ACTION ACCRUES, AND NO CHANGE

OF THE STATUTES OF LIMITATIONS MAY BE EFFECTED BY ANY LATER LEGISLATION FIXING A DIFFERENT PERIOD. UNITED STATES RUBBER CO. V. McMANUS, 211 S.C. 342, 45 S.E. 2d. 335 336-37 (1947), QUOTING AND UPHOLDING GLOVER V. FLOYD, 76 S.C. 292, 57 S.E. 25, 27 (1902) THESE ARE MERELY RULES OF CONSTRUCTION, HOWEVER, WHICH MUST GIVE WAY TO CLEAR LEGISLATIVE INTENT REGARDING PROSPECTIVE OR RETROACTIVE APPLICATION. THIS IS THE "PARAMOUNT RULE," JENKINS V. MEARS, 302 S.C. 142, 394 S.E. 2d. 317, 319 (1990)

IN THIS CASE APPELLANT HAS OVERWHELMING EVIDENCE WHICH SHALL SHOW THE EVIDENCE PRESENTED AT HIS 1984 TRIAL GUILTY PLEA SHOULD NOT BE PERMITTED TO STAND THEREFORE APPELLANT REQUEST A WRIT OF HABEAS CORPUS TO BE GRANTED.

STATE OF SOUTH CAROLINA)
COUNTY OF MCCORMICK) CERTIFICATE OF SERVICE

I PATRICK STROZIER HAVE SERVED UPON THE RESPONDENTS
MY BRIEF BY DEPOSITING THE ORIGINAL WITHIN THE U.S. MAIL
POSTAGE PRE-PAID ADDRESSED AS FOLLOWS:

THE SOUTH CAROLINA SUPREME COURT
C/O DANIEL SHEAROUSE CLERK
P.O. BOX 29211
COLUMBIA, S.C. 29211

SI Patrick Strozier
PATRICK STROZIER

SWORN AND SUBSCRIBED BEFORE ME
THIS 28 DAY OF OCT 2013

JCF Franklin
NOTARY PUBLIC

MY COMMISSION EXPIRES 12/10/2019

RECEIVED
OCT 31 2013
S.C. SUPREME COURT

Mr. PATRICK STROZIER #119519
McCORMICK CORRECTIONAL INST.
386 REDEMPTION WAY
McCORMICK, S.C. 29899

SOUTH CAROLINA SUPREME COURT
C/O DANIEL SHEAROUSE, CLERK
P.O. Box 11330
COLUMBIA, S.C. 29211

LEGAL MAIL "